

**UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MISSOURI
EASTERN DIVISION**

UNITED STATES OF AMERICA,)
)
Plaintiff,)
) Cause No. 4:21-CR-00155 MTS
v.)
)
BRENT M. LAWSON,)
)
Defendant.)

JOINT MOTION TO CONTINUE PLEA

Come now the parties, Defendant represented by Defense Counsel Joseph Flees and the United States of America represented through Assistant United States Attorney Jillian Anderson, and respectfully request the Court continue the plea date for at least 45 days to allow the parties time to reevaluate the plea agreement. In support of this request, states as follows:

1. Defendant has been charged with one count of Receipt of Child Pornography.
2. A plea has been set in this matter on September 21, 2021.
3. The parties have signed a plea agreement which essentially states that Defendant may argue for any lawful sentence (5-20 years) and that the Government would seek a ten-year sentence.
4. The Defendant was previously convicted on April 22, 2004, in the United States District Court for the Eastern District of Missouri in cause number 4:03-CR-00612-SNL of transportation of child pornography, attempted receipt of child pornography and possession of child pornography in violation of Title 18, United States Code, Section 2252A. The prior conviction is plead in the Indictment.

5. The plea negotiations anticipated the Government filing a superseding information wherein the prior conviction would be omitted in hopes that the statutory provisions of 18 U.S.C. § 2252A(a)(2) requiring a fifteen-year mandatory minimum would not be triggered, allowing for the terms of the plea agreement to be possible.

6. On September 14, 2021, upon further research, the Government alerted Defense Counsel that similar plea agreements which try to avoid mandatory minimums by omitting prior convictions from have been invalid because the statute does not allow for this type of omission to take place. *See also Almendarez-Torres v. United States*, 523 U.S. 224 (1998) (holding that an indictment must set forth each element of the crime charged but need not set forth factors relevant only to sentencing of an offender found guilty). The Government's position is that the PSR would instruct the Court to execute no less than the mandatory minimum and the Court would be compelled to do so regardless of the plea agreement.

7. Based on this new information, both parties are requesting more time to conduct necessary legal research and to reevaluate, and very well likely renegotiate, a plea agreement.

8. Defendant is confined in the Crawford County Jail so Defense Counsel will need additional time to talk with Defendant about his options and transmit any necessary documents.

9. If the Court grants this request, the parties request this matter not be placed on the week of October 18-22, or October 26, 28, and 29 due to prior conflicts with the parties' schedules.

10. This request for an extension of time is made in good faith for all the reasons listed herein and not to vex or harass the Court, but to ensure Defendant's Sixth Amendment right to effective assistance of counsel. The ends of justice will be best served by excluding this period of delay from calculating deadlines that would otherwise apply. 18 U.S.C. § 3161(h)(7)-(8).

WHEREFORE based on the foregoing the parties request the Court continue the plea date for at least 45 days to allow the parties time to reevaluate the plea agreement and grant any other relief the Court deems just and proper.

Respectfully submitted,

/s/ Jillian Anderson (signed with consent)
JILLIAN ANDERSON
Assistant United States Attorney

/s/ Joseph W. Flees
JOSEPH W. FLEES (#60872MO)
Attorney for Defendant

CERTIFICATE OF SERVICE

I hereby certify that on September 15, 2021, the foregoing was filed electronically with the Clerk of the Court to be served by operation of the Court's electronic filing system upon the following.

Jillian Anderson
Asst. United States Attorney
111 South Tenth Street, 20th Floor
St. Louis, Missouri, 63102

/s/ Joseph W. Flees
JOSEPH W. FLEES